

12-19-00

Practitioner's Docket No. 701826-050008-CIP

A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Batist et al.

Application No.: Not yet assigned

Group No.: Not yet assigned

(Continuation in Part of U.S. Ser. No. 09/276,005)

Filed: Herewith

Examiner: Not yet assigned

(Filed: 25 March 1999)

For: HEX II TUMOR-SPECIFIC PROMOTER AND USES THEREOF IN CANCER THERAPY

Box Patent Application

Assistant Commissioner for Patents

Washington, D.C. 20231

NEW APPLICATION TRANSMITTAL

Transmitted herewith for filing is the patent application of:

Inventor(s): BATIST, Gerald and KATABI, Maha

For (title): HEX II TUMOR-SPECIFIC PROMOTER AND USES THEREOF

1. Type of Application

This new application is for a

(check one applicable item below)

- ☐ Original (nonprovisional)
☐ Design
☐ Plant
☐ Divisional.
☐ Continuation.
☒ Continuation-in-part (C-I-P).

2. Benefit of Prior U.S. Application(s) (35 U.S.C. 119(e), 120, or 121)

☒ The new application being transmitted claims the benefit of prior U.S. Application Serial No. 09/276,005 filed on 25 March 1999.

3. Papers Enclosed

A. Required for Filing Date under 37 C.F.R. section 1.53(b) (Regular) or 37 C.F.R. section 1.153 (Design) Application

32 Pages of Specification

3 Pages of Claims

15 Sheets of Drawing

(complete the following, if applicable)

☐ The enclosed drawing(s) are photograph(s), and there is also attached a "PETITION TO ACCEPT PHOTOGRAPH(S) AS DRAWING(S)." 37 C.F.R. section 1.84(b).

☒ Formal

☐ Informal

B. Other Papers Enclosed

 3 Pages of declaration and power of attorney

 1 Pages of Abstract

 Other

4. Additional Papers Enclosed

☐ Amendment to claims

☐ Cancel in this applications claims _____ before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

☐ Add the claims shown on the attached amendment. (Claims added have been numbered consecutively following the highest numbered original claims.)

☐ Preliminary Amendment

☐ Information Disclosure Statement (37 C.F.R. section 1.98)

☐ Form PTO-1449 (PTO/SB/08A and 08B)

☐ Citations

☐ Declaration of Biological Deposit

☐ Submission of "Sequence Listing," computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

☐ Authorization of Attorney(s) to Accept and Follow Instructions from Representative

☐ Special Comments

☐ Other

5. Declaration or Oath (including power of attorney)

☒ Enclosed

Executed by Gerald Batist and Maha Katabi

(check all applicable boxes)

☒ inventor(s).

☐ legal representative of inventor(s). 37 C.F.R. section 1.42 or 1.43.

☐ joint inventor or person showing a proprietary interest on behalf of inventor who refused to sign or cannot be reached.

☐ This is the petition required by 37 C.F.R. section 1.47 and the statement required by 37 C.F.R. section 1.47 is also attached. See item 13 below for fee.

☐ Not Enclosed.

☐ Application is made by a person authorized under 37 C.F.R. 1.41 on behalf of *all* the above named inventor(s).

(The declaration or oath, along with the surcharge required by 37 C.F.R. section 1.16(e), can be filed subsequently).

☐ Showing that the filing is authorized.
(not required unless called into question. 37 C.F.R. section 1.41(d))

6. Inventorship Statement

The inventorship for all the claims in this application are:

☐ The same.

or

☐ Not the same. An explanation, including the ownership of the various claims at the time the last claimed invention was made,

☐ is submitted.

☐ will be submitted.

7. Language

☒ English

☐ Non-English

☐ The attached translation includes a statement that the translation is accurate. 37 C.F.R. section 1.52(d).

8. Assignment

☐ An assignment of the invention to _____

☐ is attached. A separate ☐ "COVER SHEET FOR ASSIGNMENT (DOCUMENT) ACCOMPANYING NEW PATENT APPLICATION" or ☐ FORM PTO 1595 is also attached.

☐ will follow.

9. Certified Copy

Certified copy(ies) of application(s)

Country	U.S.	Appln. no.	Filed
---------	------	------------	-------

Country		Appln. no.	Filed
---------	--	------------	-------

Country		Appln. no.	Filed
---------	--	------------	-------

from which priority is claimed

☐ is (are) attached.

☐ will follow.

10. Fee Calculation (37 C.F.R. section 1.16)

A. ☒ Regular application

CLAIMS AS FILED

Claims	Number Filed	Basic Fee Allowance	Number Extra	Rate	Basic Fee 37 C.F.R. section 1.16(a) \$760.00 Total Claims (37 C.F.R. section 1.16(c))
--------	--------------	---------------------	--------------	------	--

25 - 20 = 5	x	\$ 18.00
-------------	---	----------

Independent Claims (37 C.F.R. section 1.16(b))	4 - 3 = 1	x	\$ 80.00
--	-----------	---	----------

Multiple Dependent Claim(s), if any (37 C.F.R. section 1.16(d))	+	\$260.00
--	---	----------

- ☐ Amendment cancelling extra claims is enclosed.
☐ Amendment deleting multiple-dependencies is enclosed.
☐ Fee for extra claims is not being paid at this time.

Filing Fee Calculation \$440.00

- B. ☐ Design application
(\$310.00--37 C.F.R. section 1.16(f))

Filing Fee Calculation \$

- C. ☐ Plant application
(\$480.00--37 C.F.R. section 1.16(g))

Filing Fee Calculation \$

11. Small Entity Statement(s)

- ☒ Applicant asserts Small Entity status pursuant to (37 C.F.R. 172).

(complete the following, if applicable)

- ☐ Status as a small entity was claimed in prior application
_____/_____, filed on _____ from which benefit is being
claimed for this application under:

35 U.S.C. section ☐ 119(e),
☐ 120,
☐ 121,
☐ 365(c),

and which status as a small entity is still proper and desired.

- ☐ A copy of the statement in the prior application is included.

Filing Fee Calculation (50% of A, B or C above) \$575.00

12. Request for International-Type Search (37 C.F.R. section 1.104(d))

(complete, if applicable)

- ☐ Please prepare an international-type search report for this application at the time when
national examination on the merits takes place.

13. Fee Payment Being Made at This Time

☐ Not Enclosed

☐ No filing fee is to be paid at this time.
(This and the surcharge required by 37 C.F.R. section 1.16(e) can be paid subsequently.)

☒ Enclosed

☒ Filing fee \$575.00

☐ Recording assignment
(\$40.00; 37 C.F.R. section 1.21(h))
(See attached "COVER SHEET FOR
ASSIGNMENT ACCOMPANYING NEW
APPLICATION.") \$

☐ Petition fee for filing by other
than all the inventors or person
on behalf of the inventor where
inventor refused to sign or cannot
be reached
(\$130.00; 37 C.F.R. sections 1.47 and 1.17(I)) \$

☐ For processing an application with a
specification in a non-English language
(\$130.00; 37 C.F.R. sections 1.52(d) and 1.17(k)) \$

☐ Processing and retention fee
(\$130.00; 37 C.F.R. sections 1.53(d) and 1.21(l)) \$

☐ Fee for international-type search report
(\$40.00; 37 C.F.R. section 1.21(e)) \$

Total Fees Enclosed \$

14. Method of Payment of Fees

☒ Check in the amount of \$ 575.00.

☐ Charge Account No. in the amount of \$.
A duplicate of this transmittal is attached.

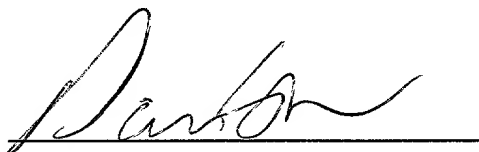
15. Authorization to Charge Additional Fees

- ☒ The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Account No. 50-0850.
- ☒ 37 C.F.R. section 1.16(a), (f) or (g) (filing fees)
- ☒ 37 C.F.R. section 1.16(b), (c) and (d) (presentation of extra claims)
- ☐ 37 C.F.R. section 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- ☐ 37 C.F.R. section 1.17(a)(1)-(5) (extension fees pursuant to section 1.136(a).
- ☐ 37 C.F.R. section 1.17 (application processing fees)
- ☐ 37 C.F.R. section 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. section 1.311(b))

16. Instructions as to Overpayment

- ☒ Credit Account No. 50-0850.
- ☐ Refund

Date: 18 December 2000



David S. Resnick (Reg. No. 34,235)
NIXON PEABODY LLP
101 Federal Street
Boston, MA 02110
Tel: (617) 345-1000, X6057
Fax: (617) 345-1300

- ☐ **Incorporation by reference of added pages**

(check the following item if the application in this transmittal claims the benefit of prior U.S. application(s) (including an international application entering the U.S. stage as a continuation, divisional or C-I-P application) and complete and attach the ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATION(S) CLAIMED)

☐ Plus Added Pages for New Application Transmittal Where Benefit of Prior U.S. Application(s) Claimed

Number of pages added _____

☐ Plus Added Pages for Papers Referred to in Item 4 Above

Number of pages added _____

☐ Plus added pages deleting names of inventor(s) named on prior application(s) who is/are no longer inventor(s) of the subject matter claimed in this application.

Number of pages added _____

☐ Plus "Assignment Cover Letter Accompanying New Application"

Number of pages added _____

☒ **Statement Where No Further Pages Added**

(if no further pages form a part of this Transmittal, then end this Transmittal with this page and check the following item)

☒ This transmittal ends with this page.

Docket No. 701826-050008

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Batist et al.

Application No.: Not yet assigned

Group No.: Not yet assigned

(Continuation in Part of U.S. Ser. No. 09/276,005)

Filed: Herewith

Examiner: Not yet assigned

(Filed: 25 March 1999)

For: HEX II TUMOR-SPECIFIC PROMOTER AND USES THEREOF IN CANCER THERAPY

Box New Application

Assistant Commissioner for Patents

Washington, D.C. 20231

EXPRESS MAIL CERTIFICATE

Express Mail Label Number: EL565095350US

Date of Deposit: 18 December 2000

I hereby state that the following *attached* papers and fees:

1. New Application Transmittal [8 pgs];
2. Application: Specification 32 pages; Claims 3 pages; 15 Sheets of Drawings; Abstract 1 pg [51 pgs];
3. Combined Declaration for Utility or Design Patent Application (37 C.F.R. 1.63) and Power of Attorney – Executed by Gerald Batist and Maha Katabi [3 pgs];
4. Cheque in the Amount of \$575.00;
11. Return Receipt Postcard;

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. section 1.10, on the date indicated above and is addressed to Box New Application, Assistant Commissioner for Patents, Washington, D.C. 20231.

Nicole M. Gignac


Signature of person mailing paper or fee